

FILED BY *df* ^{DC} UNITED STATES DISTRICT COURT
05 DEC 12 AM 9:06 WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED *cas* D.C.
2005 NOV 28 PM 4:20

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
JAMES BECTON, EUGENE CHEERS,
ADOLPH MARMON, JR., NORMAN
MARSHALL, and MAURICE PELLY,

Plaintiffs,

v.

CANADIAN NATIONAL/ILLINOIS
CENTRAL RAILROAD,

Defendant.

Civil Action No. 2:03cv2982 M1-V
Honorable Jon P. McCalla

MOTION OF DEFENDANT
CANADIAN NATIONAL/ILLINOIS
CENTRAL RAILROAD FOR LEAVE
TO FILE INSTANTER THE
ATTACHED REPLY MEMORANDUM
IN SUPPORT OF ITS MOTIONS FOR
SUMMARY JUDGMENT

Granted
Dec. 8, 2005
Jon P. McCalla

Defendant (hereinafter "Illinois Central") moves the Court for leave to file the attached reply memorandum instanter. In support of this Motion, Illinois Central states as follows:

1. On October 14, 2005, Illinois Central filed and served its motions for summary judgment with respect to each of the Plaintiffs' Complaints in the above-captioned matter.
2. By Order of the Court dated November 4, 2005, Plaintiffs had until November 14, 2005, in which to file and serve their responsive papers in opposition to Illinois Central's motions for summary judgment with respect to the pending Complaints of the four Plaintiffs who remain parties in this case.
3. Plaintiffs filed their papers in opposition to Illinois Central's motions for summary judgment on November 4, 2005. Illinois Central received Plaintiffs' responsive papers on November 10, 2005.
4. Illinois Central has reviewed and analyzed Plaintiffs' responsive papers in opposition to summary judgment, and has determined that some of the issues raised therein require a brief response or legal or factual clarification. Accordingly, Illinois Central has

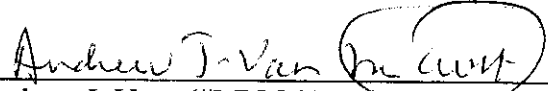
prepared the attached reply memorandum in support of its motions for summary judgment, for which it seeks leave to file instanter.

5. Illinois Central submits that these papers are drafted and should be accepted for good cause shown, and to ensure that the Court is properly briefed as to the respective positions of the parties with respect to the summary judgment issues.

6. Illinois Central respectfully requests leave to file the attached reply memorandum instanter, and submits that denial of this request could prejudice its position, while granting of the motion will not cause unnecessary delay or prejudice to Plaintiffs' position or to the Court's schedule.

WHEREFORE, based upon the foregoing, Defendant respectfully requests that the Court grants its Motion for Leave to File Instanter the Attached Reply Memorandum in Support of Its Motions for Summary Judgment.

Date: November 28, 2005



Andrew J. Voss (#MN 241556)

Admitted Pro Hac Vice

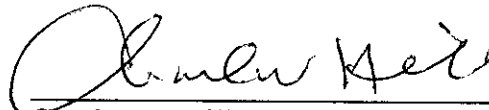
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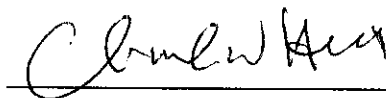
**ATTORNEYS FOR DEFENDANT
CANADIAN NATIONAL/ILLINOIS
CENTRAL RAILROAD**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served this 28 day of November, 2005 via U.S. Mail, postage prepaid to the following counsel of record:

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Notice of Distribution

This notice confirms a copy of the document docketed as number 74 in case 2:03-CV-02982 was distributed by fax, mail, or direct printing on December 12, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT